



## **Economic & Employment ENFORCEMENT COALITION**

**REPORT TO THE  
DIRECTOR OF THE CALIFORNIA  
DEPARTMENT OF FINANCE  
&  
CALIFORNIA JOINT LEGISLATIVE  
BUDGET COMMITTEE**

**September 2007**

**PREPARED BY THE**



**SECRETARY VICTORIA L. BRADSHAW**



## Members & Contributing Agencies



## MISSION STATEMENT

Economic & Employment Enforcement Coalition is a partnership of state and federal agencies, each expert in their own field:

Collaborating for vigorous and targeted enforcement against unscrupulous businesses; and,  
Helping to level the playing field and restoring competitive advantage to law abiding businesses and their employees.

## Secretary's Message

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The Budget Act of 2006, Item 7350-001-0001 Provision 1 requires that the Secretary of the California Labor & Workforce Development Agency report to the Director of Finance and the Joint Legislative Budget Committee on the progress of the Underground Economy Enforcement and provide justification for its continuance by September 13, 2007. In January 2004, to combat the underground economy, the Governor proposed and the Legislature subsequently approved 66 new positions and \$6.5 million in funding for the creation of the Economic and Employment Enforcement Coalition (EEEC) – a partnership of State agencies tasked with identifying the worst offenders via targeted enforcement actions throughout the state. Members of the EEEC build upon their individual expertise to create a team of enforcement officials with better information, access, and ability than previous efforts have produced. Funding for this effort was provided on a three year limited term basis beginning in July 2005 and ending June 30, 2008.

This team consists of investigators and auditors from the Department of Industrial Relations, Division of Labor Standards Enforcement (DLSE) and Division of Occupational Safety and Health (DOSH); California Employment Development Department (EDD); and Department of Consumer Affairs, Contractor's State License Board (CSLB). In addition to these State of California agencies, the United States Department of Labor (USDOL) is also a strong partner in working to combat the underground economy.

The objective of the EEEC is to address the underground economy in a unique and dynamic way. It is a coalition of agencies actively combating non-compliant employers while also providing concentrated outreach and education to employers and workers. This approach marked a new direction in combating California's underground economy. Employers who choose to break the laws are penalized, while employers who are willing to come into compliance are given the information and assistance necessary to become legitimate and compliant businesses.

Our combined experience has taught us that the underground economy preys on low-wage and unskilled workers who are desperately seeking work and are willing to accept any terms the employer dictates, regardless of the working conditions, pay or safety issues. In the first two years of its existence, the EEEC has identified over \$109 million in unreported wages and assessed over \$17 million in unpaid employment taxes. One hundred and sixty one cases have been referred to District Attorney's Offices and fifty eight have resulted in criminal convictions. The coalition is currently focusing its efforts on seven industries: agriculture, car wash, construction, garment manufacturing, janitorial service, horse racing tracks, and restaurants. These industries were selected as a result of having historically high rates of labor, tax, and licensing violations as identified in prior enforcement efforts. All are traditionally low-wage industries with the exception of the construction industry.

## Secretary's Message

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The EEEEC's accomplishments since its inception and initial implementation in June 2005 have been significant. This report provides detailed information on EEEEC joint operations and the resulting violations found and citations issued under the Labor Code, Business and Professions Code, and Unemployment Insurance Code. It also outlines some of the criminal prosecutions resulting from EEEEC inspections.

Since its inception in July 2005, EEEEC enforcement activities have resulted in a total of 2,970 businesses inspected. Non-compliant businesses identified were issued a total of 9,250 citations and assessments for violations. The amount of subsequent tax audits, assessments, numbers of previously unreported workers (along with their previously unreported wages), number of labor code and safety violations, penalties and assessments, are denoted in the body and appendices of this report.

The EEEEC is unique compared to other enforcement efforts in the past or currently operating. This coalition utilizes a blend of enforcement, education, and outreach (including television and radio spots), to gain employer compliance. The EEEEC employer education efforts consist of formal three-hour, industry specific presentations and post-inspection meetings to ensure that businesses within each of these industries understand their responsibilities as employers operating within California.

EEEC enforcement efforts have proven to be very effective, allowing participating agencies to address multiple, rather than singular, violations of the law. The EEEEC has also established valuable communication and educational efforts with business and labor organizations within industries that are prone to underground economy activity. We will use the budget development process as the mechanism to recommend continuance of this important program. I believe that the two years of data in the attached report provides compelling information to continue the program.

**Secretary Victoria L. Bradshaw**  
**California Labor & Workforce Development Agency**

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“Underground economy” is a term that refers to those individuals and businesses that willfully avoid labor, licensing, and tax laws, by dealing in cash and/or using other schemes to conceal their activities and their true tax liability from government licensing, regulatory, and tax agencies. Underground economy is also referred to as tax evasion, tax fraud, cash pay, and payments under-the-table or off-the-books.

Reports on the underground economy indicate it imposes significant burdens on:

1. Taxpayers within the State of California;
2. Businesses that comply with the law;
3. Workers, who lose benefits and other protections provided by State law when the businesses they work for operate in the underground economy; and
4. The public.

The actual size of the underground economy is, by definition, difficult to measure. The General Accounting Office (the investigative arm of the United States Congress) conducted a study of tax year 2001 and found the federal tax gap to range from \$312 billion to \$353 billion. A February 2005 report, *California's Tax Gap*, prepared by California's Legislative Analyst's Office, estimates California's income tax gap to be \$6.5 billion. This figure is consistent with a 1993 estimate calculated by Wells Fargo Bank – and indicates that the underground economy is a serious problem.

These “underground” businesses – participating in illegal schemes to reduce their operating costs associated with insurance, payroll taxes, licenses, employee benefits, safety equipment, and safety conditions – gain an unfair competitive advantage over businesses that comply with California's business laws. This causes law-abiding businesses to lose jobs to lower bidding, non-compliant businesses and to pay higher Workers' Compensation insurance premiums, payroll taxes, etc., to make up for costs not paid by non-compliant businesses. At times, these additional burdens placed on legitimate businesses are so great that they are unable to sustain sufficient profits and have no choice but to cease doing business.

Workers are also negatively impacted due to the loss of benefit protections afforded by labor laws, Workers' Compensation insurance, and unemployment / disability insurance. These workers often also fall victim to unsafe working conditions.

Consumers are often negatively affected when contracting with unlicensed businesses, as the State's licensing provisions are designed to ensure minimum levels of contractor skills and knowledge. The ultimate goal of these licensing provisions is to protect the consumer.

Thus, the fundamental impact of businesses operating within the underground economy is the erosion of working conditions and economic stability in this State.

In October 1993, an Executive Order established the Joint Enforcement Strike Force (JESF) as an initial step in combating the underground economy. The JESF pooled resources and promoted data sharing among the State agencies charged with enforcing licensing, labor, and tax laws. The JESF was later codified in the California Unemployment Insurance Code. The California Employment Development Department (EDD) is the lead agency and partners with the Department of Consumer Affairs, Department of Industrial Relations (DIR), Franchise Tax Board (FTB), Board of Equalization (BOE), and the California Department of Justice (DOJ). The Department of Insurance (DOI) was added as a member effective January 1, 2002. The JESF program is designed to focus on a wide variety of industries in investigating any individual business that are participating in underground economic activities.

In January 2005, the Governor's Budget for State Fiscal Year (SFY) 2005-2006 established the EEEEC, a targeted joint effort by State and Federal agencies to combat the underground economy. The necessary funding was approved by the Legislature. While there are some similarities between JESF and EEEEC, the EEEEC differs from JESF by focusing on specific low-wage industries and industries with high violation rates, and by utilizing a unique blend of geographical area joint enforcement compliance (known as "sweeps") along with statewide education and outreach to both employers and employees.

Partner organizations within the EEEEC work together to plan and implement not only joint enforcement activities but also significant educational and outreach efforts. And, as California's employer and employee communities reflect the cultural and language diversity of the State, the multi-lingual capabilities of EEEEC staff enhance the effectiveness of these enforcement operations and educational efforts. Many of the workers in the industries targeted by the EEEEC are non-English speaking. The availability of translators in over fifty different languages has made a major impact on the effectiveness of EEEEC activities. More than half of the EEEEC field investigators are bilingual, including staff fluent in Spanish, Vietnamese, Tagalog, Punjabi, Korean, Cantonese and Mandarin languages. Additionally, when EEEEC investigators encounter a business whose employees speak a language in which investigators on a particular "sweep" are not fluent, staff from EDD Job Services offices have assisted in these sweeps. The ability to speak to the workers in their native language has resulted in more cooperation and support during and after the field compliance inspections. The EEEEC investigators find that workers are more cooperative when they understand that the EEEEC partners are there to enforce laws that protect them.

The purpose of the EEEEC is to help legitimate businesses and California workers combat the underground economy. For decades, California has had some of the strongest labor and workplace safety laws in the country, but California needs strong enforcement of those existing laws in order for them to be effective. The EEEEC conducts multi-agency compliance inspections within defined geographical areas. Currently, the EEEEC is focusing on seven industries known to include businesses participating in the underground economy: agriculture; car wash; construction; garment manufacturing; janitorial services; horse racing tracks; and restaurant industries. The criteria for targeting these industries are:

1. EEEEC agencies have experienced high rates of violations with the businesses.
2. Many of these industries have a history of offering low-wage paying jobs and/or poor working conditions.
3. EEEEC agencies have identified trends of businesses participating in the underground economy.

The EEEEC enforcement activities are intended to enhance fair business competition by targeting employers within these industries who gain an unfair advantage through violation of State and Federal labor, licensing, and employment laws. At the same time, the EEEEC education and outreach activities assist employers and workers to fully understand their obligations and rights under those same laws.

## Participating Agencies

Teams of EEEEC investigators conduct onsite inspections at least three weeks of each month. Each EEEEC Agency is an expert in its particular field; together, the agencies collaborate to:

- Educate business owners and employees on State and Federal labor, licensing, and employment laws;
- Conduct vigorous and targeted enforcement against labor law violators;
- Restore competitive equality to law-abiding businesses to help level the playing field; and
- Protect the health, safety, and benefit rights of workers.

A listing of EEEEC agencies and their roles and responsibilities follows:

### California Labor & Workforce Development Agency (LWDA)

Within the California Labor & Workforce Development Agency (LWDA), the Deputy Secretary of Policy & Enforcement oversees the implementation, policy, and operations of the EEEEC, in order to ensure that our program resources are



leveraged to target the worst offenders in California's underground economy. The LWDA also takes the lead in coordinating the educational components of the enforcement programs to make certain that employers and workers understand their rights and responsibilities under state and federal law. For additional information on the LWDA, visit: [www.labor.ca.gov](http://www.labor.ca.gov).

### **Department of Industrial Relations (DIR)**

The DIR oversees seven programs and six boards and commissions, including two which participate in the EEEEC:

#### ***Division of Labor Standards Enforcement (DLSE)***

The DLSE is responsible for vigorously enforcing minimum labor standards in order to ensure employees are not working under substandard unlawful conditions. The DLSE protects workers and legitimate employers from businesses who attempt to gain competitive advantage by ignoring the law. The DLSE enforces:

- California's minimum wage law
- Timely payment of overtime and wages
- Employer record-keeping requirements
- Meal and rest period requirements
- Mandatory workers' compensation insurance coverage
- Child labor laws
- Proper wage deduction statements
- Prevention of workplace discriminatory retaliation practices
- Contractor licensing requirements

In addition, the DLSE licenses or regulates various California employers and underage workers. This includes licensing for:

- Agricultural farm labor contractors
- Car wash operators
- Garment manufacturers
- Other occupations such as talent agents, film studio teachers, and children employed within the entertainment industry

The DLSE investigators conduct onsite workplace inspections to ensure compliance with California's laws. Investigators review payroll records to determine if wages have been paid properly and to issue civil citations to employers found in violation of labor laws that carry a civil monetary penalty. For more information on the labor standards enforcement program, go to: [www.dir.ca.gov/dlse](http://www.dir.ca.gov/dlse).

### ***Division of Occupational Safety & Health (DOSH)***

The DOSH aims to ensure that California's workers have safe workplaces, and seeks to achieve this goal through effective enforcement of California's workplace safety and health standards, with an emphasis on the rapid abatement of any hazards identified.

The Division employs industrial hygienists, safety engineers, and investigators to conduct onsite workplace inspections. In addition, the program permits and certifies elevators, amusement rides, pressure vessels, and underground and surface mines.

The DOSH investigators within the EEEEC program participate in onsite workplace inspections, looking for violations of health and safety codes. Additionally, DOSH staff are an essential participant in EEEEC outreach and education efforts, providing employers and workers with information and research materials regarding workplace safety. For more information on this program, go to: [www.dir.ca.gov/DOSH](http://www.dir.ca.gov/DOSH).

### **Employment Development Department (EDD)**

The EDD offers a wide variety of services to millions of California workers and businesses. As one of California's largest tax collection agencies, EDD also is responsible for the audit and collection of payroll taxes and maintains employment records for more than 17 million California workers. Each year, the EDD Tax Branch collects more than \$40 billion in payroll taxes from more than 1 million California employers.

The EDD staff within EEEEC participate in onsite inspections, focusing on identifying possible non- or under-reporting of wages and/or workers, which may result in a subsequent tax audit of the employer. The EDD staff are also key participants in the EEEEC outreach and education seminars.

With fluency in a variety of languages, the EDD Job Services staff are also critical partners in the EEEEC, assisting with interviewing non-English speaking workers as well as providing rapid-response services to those workers who may be displaced when an employer must shut down (for example, due to serious Labor Code violations). These services may include referrals to local employment and training resources including One-Stop Career Centers. For additional information on EDD's efforts to combat the underground economy, visit: [www.edd.ca.gov/taxrep/txueoind.htm#EDDs-Underground-Economy-Operations](http://www.edd.ca.gov/taxrep/txueoind.htm#EDDs-Underground-Economy-Operations).

### **California Contractors State License Board (CSLB)**

The CSLB is mandated by the California Legislature to license and regulate contractors in 42 licensee classifications within California's construction industry. Contractors are required by law to be licensed and comply with all building, employment, and tax laws. Currently, there are approximately 295,000 licensed contractors regulated by the State.

The CSLB Enforcement Program participates in EEEEC onsite inspections of construction sites, focusing on compliance with licensing laws, with an emphasis on identifying unlicensed (illegal) contractors. Each year, the CSLB Enforcement Program receives more than 20,000 consumer complaints against licensed and unlicensed contractors. The Enforcement Program investigates these complaints (from consumers or legitimate contractors), and participates in EEEEC outreach seminars focused on educating consumers and other public agencies. The CSLB has established a Statewide Investigative Fraud Team (SWIFT) that focuses on the underground economy and on unlicensed contractors. These units conduct stings and sweeps to help curtail illegal contracting by citing those who are not licensed. For more information on CSLB, go to: [www.cslb.ca.gov](http://www.cslb.ca.gov).

### **US Department of Labor (USDOL)**

The mission of the USDOL Wage & Hour Division is to promote and achieve compliance with labor standards to protect and enhance the welfare of the nation's workforce. The Division is responsible for the administration and enforcement of a wide range of laws which collectively cover virtually all private and government employment. For additional information on the Wage & Hour Division at the USDOL, visit their Web site at: [www.dol.gov/esa/whd/](http://www.dol.gov/esa/whd/).

These EEEEC agencies, each with their own charge for enforcing various State and Federal laws, combine their resources and expertise to respond to the underground economy in California. The industry-focused activities conducted by the EEEEC allow these agencies to be responsive in addressing the violations of law that are harming California's workers, consumers, and compliant businesses.

Each targeted industry is unique and the EEEEC tailors their plan to address the uniqueness of each industry. There is often a need for specific language ability or the necessity to schedule the enforcement actions during non-traditional business hours. Compliance inspections are scheduled whenever the businesses are operating, not just when the EEEEC staff would normally be working. If it is known that a specific industry tends to operate on weekends or in the overnight hours, EEEEC investigators will be scheduled to conduct the inspections during the operating times. Whenever the workers are there, EEEEC will be there.

The EEEEC was proposed by Governor Arnold Schwarzenegger and incorporated into the 2005-2006, 2006-2007, and 2007-2008 State budgets. The annual budget provides \$6.2 million and 66 EEEEC enforcement and audit positions to investigate businesses operating in the underground economy. This funding ends June 30, 2008. The table below shows a summary of EEEEC positions for SFY 2007-2008.

**Economic & Employment Enforcement Coalition  
Authorized Positions vs. Actual Positions  
Fiscal Year 2007-08**

Classifications	Authorized Positions	Filled Positions
Industrial Relations Counsel III	1.0	1.0
Staff Counsel	1.0	1.0
Senior Safety Engineer	1.0	1.0
Associate Safety Engineer	9.0	9.0
Tax Administrator I	2.0	2.0
Associate Industrial Hygienist	1.0	1.0
Tax Auditor IV	18.0	0.0
Associate Tax Auditor	0.0	14.0
Senior Tax Compliance Representative (Specialist)	2.0	1.0
Employment Program Representative	0.0	4.0
Deputy Labor Commissioner III	0.0	1.0
Deputy Labor Commissioner I	11.0	9.0
Industrial Relations Representative	0.0	2.0
Enforcement Representative II	0.0	2.0
Enforcement Representative I	11.0	9.0
Criminal Investigator	2.0	1.0
Assistant Information Systems Analyst	1.0	1.0
Accountant I	1.0	1.0
Payroll Auditor	1.0	0.0
Program Technician II	0.0	2.0
Management Services Technician	0.0	2.0
Office Technician	3.0	1.0
Accounting Technician	1.0	1.0
<b>TOTAL POSITIONS</b>	<b>66.0</b>	<b>66.0</b>

Note: Positions were reclassified as needed for recruitment purposes and to reflect actual needs of the EEEEC.

### Focused Industry Targeting

Since its inception in July 2005, the EEEEC has improved its surveillance techniques, front-end lead development, and screening process, all of which are used to identify those employers most likely to be out-of-compliance with EEEEC agencies' laws. This improved method of lead development increases EEEEC's accuracy in targeting non-compliant businesses, therefore, reducing the level of disruption to law-abiding businesses.

Additionally, the specific industry focus of EEEEC has allowed staff to become more specialized and in tune with the issues of each specific industry. The detailed pre-screening and lead development allows field staff to be much more familiar with each industry before the on-site inspections. This approach results in the development and implementation of more effective interviewing techniques. It also reduces the disruption to employer work operations, since the employer only has to deal with one worksite inspection by the State, rather than separate inspections from each of the State entities. This benefits both the employer and the employees.

The information obtained during an EEEEC investigation is shared among the member agencies, often resulting in expedited completion of the case file, and better identification of potential witnesses to call in the event of post-citation adjudication.

However, from coordinating and conducting these sweeps over the past two years, we have learned that the EEEEC strategy for the janitorial services and horse racing track industries is not as effective, due to the nature of their operations. Generally, these industries have workers perform services in a closed or secretive environment. There is little doubt that violations exist within these industries. However, their method of operation is not conducive to EEEEC's "sweep" enforcement approach. The EEEEC sweeps cannot be effective if we are not able to access workers and observe the business' operations. To address this issue, the EEEEC partners have met with the JESF program managers to transfer enforcement responsibility of these industries to coordinated janitorial services enforcement programs in the DLSE's Bureau of Field Enforcement and EDD's Employment Enforcement Task Force and JESF. Since its inception, EEEEC has enjoyed a close working relationship with the members of the JESF, to ensure that no industry vulnerable to the underground economy is left behind or not enforced.

We are currently conducting studies on several other industries vulnerable to the underground economy for possible selection and inclusion within the EEEEC enforcement effort.

### The Seven Industries

The following are the seven industries which the EEEEC has initially focused its attention:

#### **Agriculture**

Agriculture is a large and diverse industry throughout California. Workers are often subject to labor and safety violations from farm labor contractors, farmers, ranchers, and food processors. This industry typically employs seasonal workers who earn low wages and are exposed to extreme heat in the summer, inadequate housing and sanitation facilities, pesticides, and dangerous farm equipment. Workers encounter issues involving child labor violations, minimum wage, non-payment of wages, meal and rest period violations, and overtime law violations. Through conducting on-site EEEEC field inspections with its partners, labor and safety violators are identified and are brought into compliance.

#### **Car Wash**

The growing car wash industry typically employs workers who work less than full time and earn low wages. The workers are exposed to potentially dangerous chemicals, slippery floors, and unsafe “tunnels” where cars are washed and dried. Inspectors typically encounter issues involving violations of labor laws pertaining to child labor, payment of minimum wage, non-payment of wages, non-reporting of tips, meal and rest periods, and overtime laws. Currently, car wash industry associations are working with the EEEEC to help educate non-compliant businesses throughout the State.

#### **Construction**

The construction industry was included in EEEEC’s target group due to a high number of known violations including unlicensed contractors, unsafe working conditions, failure to maintain Workers’ Compensation insurance and unreported cash wages.

With the California infrastructure bond projects getting underway, it is extremely important that we continue our mission to ensure that the public is protected from unscrupulous contractors willing to cut corners to gain an unfair competitive advantage over legitimate licensed contractors.

#### **Garment Manufacturing**

The garment industry has a well-documented history of violating the most basic labor laws, including those centering on child labor, minimum wage,

and overtime pay. Many garment contractors are willing to cut corners to improve their profit margins by ignoring or intentionally disregarding the health and safety, licensing, and tax laws. Garment workers have often reported horrible working conditions, sub-minimum wages, no benefits, improper payment of wages, non-payment of wages, forced unpaid overtime, meal and rest period violations, and illegal firings. Garment operators can easily control their workers as many are unaware of their rights as workers performing services in California. To enhance our enforcement within this industry, EEEEC has developed a close working relationship with the Los Angeles County Health Department to identify non-compliant garment manufacturers. Additionally, when EEEEC inspectors determine that garments have been produced by employers operating within the underground economy, those garments may be seized by EEEEC staff. Generally, these garment seizures are later donated to non-profit charitable organizations.

### **Restaurant**

Restaurants of various sizes are located in communities throughout California. Businesses in this industry typically employ workers who work less than full-time and earn low wages. These workers are generally exposed to sharp implements, slippery floors, electrical outlets, and potentially unsafe foods. Investigators encounter issues involving child labor, failure to pay minimum wage and/or overtime wages, non-payment of wages, non-reporting of tips, and meal and rest period violations. Labor, tax, and safety violations are identified and laws are enforced by EEEEC staff conducting on-site inspections.

### **Horse Racing Track**

The horse racing track industry is an old, established industry in California. The horse owners and trainers are a very close-knit group. This industry typically employs workers who work less than full time and earn low wages for exercising and feeding the race horses. The workers are generally employees of either the owners or the trainers, usually paid a daily fee per horse, and they take care of three to four horses per day. The workers are mostly Hispanic and speak very little or no English. They work seasonally during the race season. Most of the workers are paid as independent contractors even though they should be reported as employees under California law. The EEEEC has encountered issues involving child labor violations, poor record keeping, minimum wage violations, failure to maintain Workers' Compensation insurance, unregistered employers, and payment of cash wages.



Due to the low rate of violations found and the relatively low number of total employers/employees within this industry, we found that the EEEEC approach was not as effective with this industry as with other targeted industries. Thus, this industry target will be transferred to the JESF program.

### **Janitorial Service**

The EDD became aware of problems in the janitorial industry in 1998 due to complaints filed by competitors citing unfair competition with cash pay janitorial firms. Nineteen businesses were assessed \$3,853,054 in unpaid payroll taxes, penalty, and interest charges for 1998 and 1999 by EDD. In addition, 598 unreported employees were discovered during this time period. This early work indicated that significant non-compliance existed in the janitorial service industry in Southern California. The EEEEC staff developed working relationships with the Pacific Association of Building Service Contractors, the Maintenance Cooperation Trust Fund, and the Service Employees International Union to develop leads, learn about the industry practices, and improve compliance within the industry.

Many times, employers in this industry will have employees simultaneously working at numerous business locations during a particular time frame. Due to difficulties of gaining access to the worksite and workers and a lack of serious health and/or safety violations found within this industry, we found that the EEEEC approach was not as effective with the janitorial service industry as with other targeted groups. Thus, this industry target will be transferred to coordinated janitorial services enforcement programs in EDD and DIR. Currently, the DLSE is working with an industry association to obtain and investigate leads on janitorial service firms suspected of ignoring State labor, safety, and tax laws.



## Activities & Accomplishments

The initial EEEEC program development was undertaken in July 2005 by a team of representatives from all of the California partner agencies, as well as the USDOL. Early efforts focused on developing implementation plans and training modules as well as hiring the necessary staff. The specialized training focused on the new processes of multi-agency enforcement actions, along with education and outreach activities that allow the EEEEC to comprehensively address the underground economy in the specific targeted industries. Training was regularly held with all EEEEC staff and administrators from throughout California.

In July 2005, the first EEEEC enforcement actions took place with coordinated sweeps in the construction, agriculture, and garment manufacturing industries. After each compliance inspection or sweep, the EEEEC staff holds a briefing to discuss the operation. Several days after the conclusion of each EEEEC compliance inspection, a post-inspection meeting is held so that affected employers may attend and receive guidance on compliance requirements.

The accomplishments of the EEEEC enforcement efforts during SFY 2005-2006 and 2006-2007 are detailed in Appendices 1 and 2.

In SFY 2006-2007, the EEEEC was in full operation with a well-defined calendar of major and minor sweep operations throughout the State. Some highlights of the results of EEEEC activities since its inception are shown in the following table:

### Summary of EEEEC Accomplishments

Result	SFY 2005-2006	SFY 2006-2007	Total
Compliance inspections conducted	1,663	1,307	2,970
Previously unreported workers identified	1,193	4,471	5,664
Previously unreported wages identified	\$17,487,200	\$92,370,364	\$109,857,564
Employment tax audits completed	38	262	300
Tax liability assessed	\$3,025,126	\$14,079,917	\$17,105,043
Labor, Business & Professions Code violations	1,372	1,087	2,459
Labor, Business & Professions Code violation penalty assessments	\$7,370,978	\$9,555,500	\$16,926,478
Health & Safety Code violations	3,485	3,306	6,791
Health & Safety Code violations projected penalties	\$2,268,629	\$2,725,247	\$4,993,876
Citations issued for contracting without a license	88	62	150
Unlicensed contractor citations penalties	\$319,500	\$348,300	\$667,800
Cases referred to District Attorneys' offices for criminal prosecution	98	63	161
Cases resulting in criminal conviction	38	20	58

## **Criminal Investigations & Prosecution Referrals**

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Employment tax and workers' rights laws in California rely largely on employer self-compliance. When individuals and companies make deliberate decisions to not comply with the laws, they must expect to face civil penalties and assessments or even criminal investigation which could result in prosecution and possible jail time. Publicity of these convictions provides a deterrent effect that enhances voluntary compliance. Since the inception of EEEEC, investigators have referred over 161 cases to local district attorneys, which have resulted in 58 known convictions to date.

## Ten Examples of Violations Identified by EEEEC

Listed below are examples of representative cases detected by EEEEC, including serious violations by businesses attempting to avoid tax, labor, and licensing laws.

1. EEEEC Agents conducted an inspection of a women's and junior's clothing manufacturer in Southern California. The lead was developed by an EEEEC agent who identified the entity through surveillance and the use of several database resources. This employer has been registered with EDD since January 2002. Although the employer had reported to EDD from six to 29 employees, during the inspection, there were 35 workers observed. There were 65 sewing machines and four pressing machines. After speaking with workers and reviewing business records, the EEEEC agent determined that the employer had unreported and underreported wages and workers. According to California Secretary of State data, the employer has been in operation since May 2001. A related active business was found under the corporate name. The employer failed to maintain and provide books and records. The tax auditor issued two separate tax assessments for \$364,234 and \$31,951 for unpaid employment taxes, penalties, and interest, including fraud penalties.
2. In 2006, the Riverside County District Attorney's (DA) Office and the EDD Investigation Division's EEEEC Unit commenced a criminal investigation of a contractor who was in collusion with two other contractors to commit fraud on payroll taxes and Workers' Compensation. In 2006, search warrants were served at the employers' sites and obtained evidence that supported the allegation of the contractor paying his employees in cash and moving his 581 employees among other contractors to conceal the existence of the employees. Proper taxes were not paid to EDD for these employees and Workers' Compensation was not paid to the insurance carrier. The payroll tax liability is \$202,446. In March 2007, the Riverside County DA filed criminal charges and a complaint against the contractor.
3. In 2006, EEEEC agents inspected a Los Angeles area garment shop that specialized in knitwear. Massive knitting machines throughout the shop were missing machine guards that are designed to protect against contact with moving parts and conveyors. These missing machine guards introduced a significant risk of amputations. The team shut the machines down until the employer re-installed all the guards two days later.
4. During an EEEEC construction sweep in the Los Angeles area, team members observed workers on the second story level of a building under construction who were not wearing fall protection gear while working above exposed rebar. This action exposed the workers to an imminent impalement hazard. By issuing an Order Prohibiting Use (OPU), the team successfully shut the job down until the rebar was protected and workers were provided with fall protection gear.

## Ten Examples of Violations Identified by EEEEC

5. While conducting an EEEEC construction sweep in the Los Angeles area, team members observed workers on a scaffold that did not have guardrails. The scaffold was on a very steep slope, thereby exposing the unprotected workers to an imminent fall hazard. The workers were ordered off of the scaffolding, and an Order Prohibiting Use (OPU) was issued until the employer made the necessary improvements to the scaffolding to ensure worker safety.
6. In the Central Valley (Tulare County), EEEEC investigators conducting a sweep of a dairy had identified and collected previously unpaid overtime wages in the amount of \$237,216 for 131 affected workers. The EEEEC also obtained an additional \$9,979 in uniform allowances for the workers for which they had not previously been paid.
7. EEEEC Agents conducted an inspection in Orange County on a car wash business which was registered as a limited liability corporation (LLC). The agent checked available databases and found several of the LLC members had related inactive EDD accounts. This entity had operated another Orange County car wash which was sold in March 2003. During the inspection, the employer reported paying wages to the employees in cash. The entity was given the opportunity to file and pay, via voluntary compliance, but chose not to comply. The EEEEC agent made an audit referral resulting in the assessment of \$30,605 for unpaid employment taxes, penalties (including fraud penalties), and interest.
8. Agents from EEEEC conducted an inspection on a car wash business in Corona in late 2005. The employer initially gave permission for the inspection, but then requested the inspectors to leave. The employer had registered as a corporation with EDD in April 2003. According to BOE, the account was inactivated on July 30, 2004. The employer reported subject wages to EDD during the first through the third quarters of 2004, averaging \$38,994 and 22 employees per quarter. This employer reported an average of 13 employees to EDD for the same period. Of the 12 employees interviewed, seven employees were not reported to EDD. The Tax Auditor and Tax Audit Supervisor found wages recorded on the general ledger. The employer alleged that these were loan payments. However, the employer was unable to provide copies of the loan agreements. Audit assessments were issued for \$22,163 in unpaid employment taxes, penalties (including fraud penalties), and interest.
9. In 2007, the Office of the Los Angeles County District Attorney (DA) and the EEEEC commenced a criminal investigation of an owner of five restaurants that was committing payroll tax fraud and Workers' Compensation fraud. In 2007, search warrants were served and evidence obtained that supports the allegation that the restaurant owner was reporting only one to five

## Ten Examples of Violations Identified by EEEEC

employees to EDD, when in fact, he had over twenty employees to whom he was paying wages in cash. The employer moved his employees among his five restaurants to conceal their identities and wages to avoid paying the proper taxes to EDD and proper Workers' Compensation to the insurance carrier. The increased payroll tax liability was \$177,650.00. In April 2007, the DA filed criminal charges against the employer.

10. In January 2007, CSLB received two referrals from DOSH against a Northern California roofing company. Due to the seriousness of the alleged violations, DOSH referred these cases to CSLB for action against the licensee before DOSH administrative legal actions became final. The cases involved serious or fatal injuries to two company employees on two separate occasions:

On May 11, 2006, the employer/contractor failed to secure a skylight opening in the roof of a commercial building under construction in Rohnert Park. As a result, an employee working on the flat roof fell to his death through the skylight opening. The DOSH investigation revealed that the contractor had failed to follow the California Code of Regulations (CCCR), Title 8, 3212(e) which specifies skylight protection requirements: guard rails, personal fall protection, a covering over the opening, a skylight screen meeting minimum strength requirements, and a fall protection plan. In this case, none of the five requirements were in place, resulting in the fatality. In addition to referring the contractor to CSLB, the DOSH issued a \$14,400 citation to the employer.

Four months later, on September 21, 2006, at another commercial project in Windsor, a second employee of the same employer/contractor fell through a skylight opening. The employee suffered severe brain trauma, multiple internal injuries and broken bones. He was hospitalized in critical condition. Again, the company failed to have any of the five fall protection requirements in place. The DOSH determined that this was a willful act on the part of the employer who had ignored the previous citation and the requirements under CCCR 3212(e). The DOSH issued a \$70,000 willful citation to the employer.

The CSLB has now completed its investigation and is requesting suspension or revocation of the contractor's license.

## **Outreach & Education Efforts**

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The EEEEC is committed to educating both employers and employees. The outreach and education component was implemented in March 2006. Currently, we utilize five methods of delivering the EEEEC message: employer outreach; industry-sponsored outreach; post-inspection meetings; television and radio events; and employee outreach. Presentations are given in both English and the predominant language of the audience. Written literature is disseminated as well.

### **Employer Outreach**

These events are three-hour industry specific presentations. Employers learn about recordkeeping, reporting and payment requirements, employer labor law and tax law responsibilities, common wage and hour law application, employer and employee rights and responsibilities, the basics of how to distinguish between employees and independent contractors, and health and safety laws. Workers learn about their rights as employees working within a specific industry and are given information about each of the EEEEC partner agencies, including those services to which they may be entitled. Since March 2006, the EEEEC has held 10 employer outreach events.

### **Industry-Sponsored Outreach**

These events are similar to employer outreach events, however, the industries request our presence to ensure their members are in compliance. These events are three-hour industry-specific presentations, wherein, employers learn about many of the topics covered in the Employer Outreach sessions. Since March 2006, the EEEEC has participated in 14 events sponsored by: California Ag Safe, Western United Dairymen's Association, Western Growers Association, Yuma Fresh Vegetable Association, Los Angeles Korean America Garment Association, California Fashion Association, Sacramento Builders Exchange Expo, and other industry associations. A list of industry organizations that partner with EEEEC may be found in Appendix 4.

### **Post-Inspection Meetings**

These meetings are held the following Tuesday after sweeps have been conducted. The EEEEC field investigators give selected employers that have been inspected an invitation to attend the meeting to learn how to avoid future violations. These events are well organized, yet informal, allowing the employers the freedom to ask any question they may have regarding labor, health and safety, licensing, and tax laws. Since February 2007, the EEEEC has held 14 post-inspection meetings.

### Radio Outreach

Since March 2006, the EEEEC has participated in dozens of radio interviews and public service announcements (PSAs). During July 2007, California was experiencing extremely hot temperatures. The EEEEC targeted the Fresno and Kern Counties agricultural industries by sponsored bilingual PSAs that addressed heat safety and heat illness prevention measures.

Currently, EEEEC is using Spanish radio to educate workers about their rights as an employee working within specific industries. The EEEEC is using radio PSAs, on-air interviews, and call-in programs during which workers are given information on the EEEEC partner agencies and what services the workers are entitled to under state and federal law.

The EEEEC has already been effective in addressing the underground economy and several actions will be taken in the near future to enhance program effectiveness:

### **Full Compliance Initiative**

In SFY 2007-08, the EEEEC will be enhancing its enforcement efforts by targeting business that have outstanding tax liabilities and have eluded EDD collection efforts, thus gaining an unfair competitive advantage. This EEEEC effort will be known as “*Full Compliance*” and will focus on businesses within the agricultural, car wash, construction, and garment manufacturing industries. Employers with outstanding tax liabilities within these industries will be required to pay the liability in full or enter into a payment agreement with EDD before their business license renewal will be granted.

### **Voluntary Compliance Program (VCP)**

The EDD will also expand and centralize the VCP, a program which allows newer employers (without a lengthy history of non-compliance) the opportunity to report, self-assess, and pay their late or delinquent tax liability. To date, the VCP has been carried out by individual EEEEC investigators after each inspection. Centralization of the VCP will provide better service to the employers who are working to come into voluntary compliance. This will result in greater efficiency and better follow up on these cases. VCP will increase EDD’s audit penetration and allow EDD’s Area Audit Offices to focus their resources on the most egregious employers or difficult audit assignments.

### **Additional EEEEC Refinements**

The coalition continues to assess EEEEC operations on an ongoing basis, implementing changes as necessary to improve the overall effectiveness of this joint effort. For example, additional minimum wage and/or overtime citations will be issued on-site, where possible, instead of referring those cases for a subsequent audit. Also, the EEEEC continues to conduct research to determine which industries are most vulnerable and prone to the underground economy in California, and may include additional industries within the scope of its targeted enforcement approach. There is a possibility that EEEEC inspections of horse racing tracks may be terminated and replaced with inspections of other types of industries (such as automotive repair shops) that are likely to experience a higher-than-average percentage of non-compliant businesses.

The coalition will continue to analyze enforcement and outreach statistics, in order to identify trends of non-compliance and measure program effectiveness. Follow-up inspections (of employers previously cited) will be increased. The EEEEC is also looking into new ways to promote and advertise its outreach and education efforts



in order to reach more employers and employees.

Our challenge is to not be satisfied with the status quo, but to continue to use our limited resources to reach those who intentionally disregard the law, undercut their competitors, and deny workers the benefits to which they are entitled.

### **Justification for Continuance**

Information sharing among EEEEC agencies has improved dramatically. This has resulted in increased operational effectiveness, literally driving businesses within the underground economy out of business or into the legitimate economy. EEEEC enforcement efforts have proven to be very effective, allowing participating agencies to address multiple, rather than singular, violations of the law. The EEEEC has also established valuable communication and educational efforts with business and labor organizations within industries that are prone to underground economy activity.

The LWDA plans to use the budget development process to pursue authorization to continue this important and effective program.

**Economic & Employment Enforcement Coalition  
Summary of Citation Assessments (All Industries)  
State Fiscal Years 2005-2006 & 2006-2007**

	2005-2006		2006-2007		TOTAL	
	Number of Citations	Citation Assessments	Number of Citations	Citation Assessments	Number of Citations	Citation Assessments
Failure to have Workers' Compensation	461	\$3,751,750	346	\$3,074,000	807	\$6,825,750
Failure to provide itemization of wage statements/cash pay	274	2,667,500	285	4,881,400	559	7,548,900
Failure to pay overtime	31	77,750	33	153,400	64	231,150
Failure to pay minimum wage	17	36,000	21	183,800	38	219,800
Penalties for back wages (collected by DOL)	n/a	67,828	n/a	n/a	n/a	67,828
Failure to have required contractors license	88	319,500	62	348,300	150	667,800
Employment of minors	79	98,000	74	74,500	153	172,500
Failure to provide garment records	121	173,700	92	143,900	213	317,600
Failure to provide proof of garment registration	91	150,650	57	84,600	148	235,250
Garment confiscations	55	n/a	27	n/a	82	n/a
Failure to provide proof of car wash registration	n/a	n/a	58	537,200	58	537,200
Unlawful advertisement	28	13,050	9	4,700	37	17,750
Aiding or abetting an unlicensed person	4	6,250	15	4,000	19	10,250
Operating with any license that is expired, suspended or inactive	3	1,500	1	500	4	2,000
Willful disregard of the state building laws	2	800	3	4,000	5	4,800
Entering into a contract with an unlicensed contractor	4	3,000	1	0	5	3,000
Failure to have a home improvement contract	1	1,000	0	0	1	1,000
Misrepresentation of license	2	2,000	1	0	3	2,000
Acting in capacity of a contractor in a classification other than currently held by licensee	0	0	1	200	1	200
Other	9	700	1	61,000	10	61,700
<b>TOTAL</b>	<b>1,270</b>	<b>\$7,370,978</b>	<b>1,087</b>	<b>\$9,555,500</b>	<b>2,357</b>	<b>\$16,926,478</b>

**Economic & Employment Enforcement Coalition  
Summary of Statistics  
State Fiscal Year 2005 – 2006**

	<b>Agriculture</b>	<b>Car Wash</b>	<b>Construction</b>	<b>Garment</b>	<b>Janitorial</b>	<b>Horse Racing</b>	<b>Restaurant</b>	<b>Total</b>
Number of Inspections	421	102	477	282	21	4	356	1,663
Number of Citations & Violations	814	307	1,091	1,377	46	7	1,215	4,857
Citation Assessment & Projected Penalties	\$1,633,910	\$744,340	\$2,020,241	\$2,663,556	\$65,050	\$3,430	\$2,509,080	\$9,639,607
Audits for Wages, Tools & Uniforms	183	64	90	38	27	0	243	645
Wages Collected	\$16,606	\$2,640	\$19,972	\$512,742	\$11,291	\$0	\$16,432	\$579,683
Tax Audit Referrals	10	9	21	57	4	1	67	169
Tax Audits Completed	0	1	2	27	0	0	8	38
Tax Liabilities Assessed	\$0	\$45,980	\$886,044	\$1,944,283	\$0	\$0	\$148,819	\$3,025,126
Fraud Charges	0	1	0	10	0	0	0	11
Previously Unreported Employees	0	12	27	1,078	0	0	76	1,193
Previously Unreported Wages	\$0	\$203,499	\$7,249,405	\$8,469,044	\$0	\$0	\$1,565,252	\$17,487,200
Employer Self-Audits	0	1	0	0	0	0	7	8
Employer Liability Self-Assessed	0	\$608	0	0	0	0	\$4,301	\$4,909
Employer Liabilities Collected	0	\$608	0	0	0	0	\$4,301	\$4,909
Employer Self-Audited Reported Wages	0	\$14,581	0	0	0	0	\$85,702	\$100,283
Employer Self-Reported Employees	0	4	0	0	0	0	16	20
Employer Self-Audited Quarters	0	10	0	0	0	0	18	28

**Economic & Employment Enforcement Coalition  
Summary of Statistics  
Fiscal Year 2006 – 2007**

	<b>Agriculture</b>	<b>Car Wash</b>	<b>Construction</b>	<b>Garment</b>	<b>Janitorial</b>	<b>Horse Racing</b>	<b>Restaurant</b>	<b>Total</b>
Number of Inspections	261	151	375	207	29	12	272	1,307
Number of Citations & Violations	609	626	1,150	1,078	43	7	880	4,393
Citation Assessment & Projected Penalties	\$1,496,855	\$1,753,380	\$2,425,007	\$3,786,185	\$406,345	\$31,750	\$2,381,225	\$12,280,747
Audits for Wages, Tools & Uniforms	50	81	62	65	21	7	196	482
Wages Collected	\$430,350	\$313,789	\$252,886	\$90,558	\$4,207	\$0	\$327,495	\$1,419,285
Tax Audit Referrals	2	37	24	75	3	4	94	239
Tax Audits Completed	12	16	20	65	5	4	140	262
Tax Liabilities Assessed	\$1,666,178	\$957,355	\$1,397,662	\$4,491,356	\$436,289	\$51,878	\$5,079,199	\$14,079,917
Fraud Charges	3	9	2	17	0	0	31	62
Previously Unreported Employees	231	338	411	2,019	422	19	1,031	4,471
Previously Unreported Wages	\$12,969,523	\$7,121,059	\$10,774,422	\$28,354,260	\$5,775,145	\$754,510	\$26,621,445	\$92,370,364
Employer Self-Audits	1	6	4	0	0	2	13	26
Employer Liability Self-Assessed	\$247	\$1,997	\$14,232	\$0	\$0	\$2,516	\$8,350	\$27,342
Employer Liabilities Collected	\$247	\$1,997	\$12,667	\$0	\$0	\$2,217	\$7,990	\$25,118
Employer Self-Audited Reported Wages	\$1,875	\$55,452	\$207,519	\$0	\$0	\$49,458	\$326,515	\$640,819
Employer Self-Reported Employees	3	16	9	0	0	7	36	71
Employer Self-Audited Quarters	2	16	16	0	0	8	43	85

### **Industry Partners of Economic & Employment Enforcement Coalition**

American Chinese Garment Contractors Association of Southern California

Associated General Contractors of America, San Diego Chapter, Inc.

California Landscape Contractors Association

California Restaurant Association

Dairyman's Cooperative Creamery Association

Farm Employers Labor Service

Garment Contractors Association of Southern California

Grower-Shipper Association of Central California

Korean American Garment Industry Association

Maintenance Cooperation Trust Fund

Nisei Farmers League

Northern California Chinese Garment Contractors Association

Western Carwash Association



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